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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/250,287	02/16/1999	MAX AARON SOLONDZ	2925-0217P	1880
30594	7590	04/06/2004	EXAMINER	
HARNESSE, DICKEY & PIERCE, P.L.C.			MILORD, MARCEAU	
P.O. BOX 8910			ART UNIT	
RESTON, VA 20195			PAPER NUMBER	
			2682	18

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/250,287

Applicant(s)

SOLONDZ, MAX AARON

Examiner

Marceau Milord

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-22 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 16-22 and 24-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### Claim Objections

1. Claim 16 is objected to because of the following informalities: in claim 16, page 5, line 5, "operation " should be written "operational". Appropriate correction is required.

### Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-19, 21-22, 24, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sporre (US Patent No 5966657) in view of Ueda (US Patent No 5710980).

Regarding claim 16, Sporre discloses a method (figs. 6-7) of making operational measurements in a wireless communication system (figs. 1-3) comprising: sending a measurement request from a first base station (B1 of fig. 1) to a plurality of base stations (B1-B10 of fig. 1; col. 7, line 34- col. 8, line 42; col. 10, line 3- col. 11, line 63).

However, Sporre does not specifically disclose the feature of a measurement request requesting a plurality of base stations to make operational measurements of a signal transmitted by the first base station; and making the operational measurements at the plurality of base stations.

On the other hand, Ueda, from the same field of endeavor, discloses a cell site testing system for a portable radio communication system wherein each of a plurality of cell sites located at the center of individual cell ranges performs radio communication with a portable radio terminal which resides in the cell range of the cell site and allows communication between the portable radio terminal and another terminal of another communication network via a connection control equipment (col. 1, line 42- col. 2, line 38). Furthermore, Ueda shows in figure 1, a cell site 4a that is a base station that can communicate with CSs 4b, 4g, 4f and other CSs adjacent to CS 4a. In addition, a test call of a predetermined pattern is produced by CS 4a under the control of PHSC 5, and the test call is transmitted from CS 4a first toward CS 4b. The test call is received by CS 4b. Then, PHSC 5 similarly sends a testing instruction to CS 4b (fig. 1 B and fig. 2B; col. 3, lines 3-47; col. 4, lines 6-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the techniques of Ueda to the communication system of Sporre in order to provide a cell site testing method for a portable radio communication system, which can test a cell site efficiently.

Regarding claim 17, Sporre as modified discloses a method (figs. 6-7) of making operational measurements in a wireless communication system (figs. 1-3) of sending (M1-M 10 of fig. 1 or step 42 of fig. 7) received results of said operational measurements (col. 10, lines 9-51) to a main controller (col. 11, lines 1 - 61).

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Regarding claims 18, 22, Sporre as modified discloses a method (figs. 6-7) of making operational measurements in a wireless communication system (figs. 1-3) wherein said signal transmitted from said first base station (BI-B2 of fig. 1; col. 8, lines 32- 65) is transmitted at a constant power level (col. 11, lines 5- 63).

Regarding claim 19, Sporre as modified discloses a method (figs. 6-7) of making operational measurements in a wireless communication system (figs. 1-3) wherein said signal transmitted from said first base station (BI-B2 of fig. 1; col. 8, lines 32- 65) is a forward control channel signal (col. 5, line 2- col. 6, line 20; col. 7, line 34- col. 8, line 55).

Regarding claim 21, Sporre as modified discloses a method (figs. 6-7) of making operational measurements in a wireless communication system (figs. 1-3) wherein said signal is one of a reserved or dummy channel (col. 8, lines 4- 42; col. 9, line 4- col. 10, line 51).

Regarding claim 24, Sporre as applied to claim 16 above differs from claim 24 in the present invention, in that Sporre fails to disclose the feature of a measurement request instructing said main controller to send said measurement request to said plurality of base stations.

However, Ueda, from the same field of endeavor, discloses a cell site testing system for a portable radio communication system wherein each of a plurality of cell sites located at the center of individual cell ranges performs radio communication with a portable radio terminal which resides in the cell range of the cell site and allows communication between the portable radio terminal and another terminal of another communication network via a connection control equipment (col. 1, line 42- col. 2, line 38). Furthermore, Ueda shows in figure 1, a cell site 4a that is a base station that can communicate with CSs 4b, 4g, 4f and other CSs adjacent to CS 4a. In addition, a test call of a predetermined pattern is produced by CS 4a under the control of

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PHSC 5, and the test call is transmitted from CS 4a first toward CS 4b. The test call is received by CS 4b. Then, PHSC 5 similarly sends a testing instruction to CS 4b (fig. 1 B and fig. 2B; col. 3, lines 3-47; col. 4, lines 6-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the techniques of Ueda to the communication system of Sporre in order to provide a cell site testing method for a portable radio communication system, which can test a cell site efficiently.

Regarding claim 26, Sporre as modified discloses a method (figs. 6-7) of making operational measurements in a wireless communication system (figs. 1-3) comprising the step of sending results of the operational measurements to the first base station (B1 or B2 of fig. 1; col. 10, lines 9- 51; col. 11, lines 1 - 61).

4. Claims 20, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sporre (US Patent No 5966657) in view of Ueda (US Patent No 5710980) as applied to claim 16-19 above, and further in view of Butovitsch et al (US Patent No 6708041 B1).

Regarding claim 20, Sporre and Ueda disclose everything claimed as explained above except the feature of a wireless communication system, which is a code division multiple access system and said signal transmitted from said first base station is a pilot signal.

However, Butovitsch shows in figure 1, a CDMA communications system in which radio network controller 12 is coupled to a plurality of base stations 16, 18, and 20 (col. 5, lines 31-56). Furthermore, a transceiver is employed as a common control channel over which the base station transmits common signaling such as pilot signal. The mobile station detects the power level of the common channel signaling and determines that there is sufficient signal strength from that common signal for that base station to be a target base station for handover. The

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mobile station sends a power measurement message to the serving base station, which then sends a handover request message to the radio network controller (col. 6, lines 16-51). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Butovitsch to the modified system of Ueda and Sporre in order to control transmit power levels of different base station sectors involved in a handover.

Regarding claim 25, Sporre and Ueda disclose everything claimed as explained above except the feature of an operational measurements which includes at least one of signal strength; signal-to-noise ratio, frame error rate and bit error rate of said signal transmitted from said first base station as received at said mobile terminals in communication with said base station.

However, Butovitsch shows in figure 1, a CDMA communications system in which radio network controller 12 is coupled to a plurality of base stations 16, 18, and 20 (col. 5, lines 31-56). Furthermore, a transceiver is employed as a common control channel over which the base station transmits common signaling such as pilot signal. The mobile station detects the power level of the common channel signaling and determines that there is sufficient signal strength from that common signal for that base station to be a target base station for handover. The mobile station sends a power measurement message to the serving base station, which then sends a handover request message to the radio network controller (col. 6, lines 16-51; col. 8, line 47- col. 9, line 34). The mobile station attempts to control its transmit power based on the signal strength to generate a signal to noise value of signals received from a base station, and the base station sends transmit power control messages to the mobile station (col. 2, lines 4-30; col. 3, lines 1-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Butovitsch to the modified system of Ueda and

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Sporre in order to control transmit power levels of different base station sectors involved in a handover.

Allowable Subject Matter

5. Claims 1-12, 14-15 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claims 16-22, 24-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marceau Milord whose telephone number is 703-306-3023. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARCEAU MILORD

Marceau Milord

Examiner

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